

DAGGETT PROPERTIES, LLC,)	AGBCA No. 2002-112-1
)	
Appellant)	
)	
Representing the Appellant:)	
)	
Cliff Bentz, Esquire)	
Yturri Rose)	
P.O. Box "S")	
Ontario, Oregon 97914)	
)	
Representing the Government:)	
)	
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DECISION OF THE BOARD OF CONTRACT APPEALS

March 7, 2002

Before POLLACK, VERGILIO, and WESTBROOK, Administrative Judges.

Opinion for the Board by Administrative Judge VERGILIO.

On January 15, 2002, the Board received a notice of appeal filed by Daggett Properties, LLC, of Enterprise, Oregon (lessor), concerning a lease, No. 57-04H1-5-9747P. The lessor provided to the respondent, the U. S. Department of Agriculture, Forest Service (Government), the Forest Service Building in Naches, Yakima County, Washington, referred to as the Naches Ranger Station complex, for the Wenatchee National Forest. The lease contained a tax escalation provision. A dispute arose regarding the payment of escalation for the 1994 tax year. The Government has issued a bill of collection, to recover \$1,081.10, which the contracting officer deemed to be the amount of a Government overpayment under the tax escalation provision of the lease. The lessor asserts that the Government has withheld this amount from payments under the lease. The lessor maintains that the Government has failed to reimburse \$1,599.33 for tax year 1994. The lessor seeks payment of the withheld amount as well as the unpaid \$1,599.33.

The Board has jurisdiction over this dispute pursuant to the Contract Disputes Act of 1978, 41 U.S.C. §§ 601-613, as amended. The Board held telephone conferences with the parties; the parties discussed the dispute.

As discussed during a telephone conference call with the Board on March 5, 2002, the parties agree to a dismissal with prejudice of this appeal, thereby resolving the sole issue before the Board (the amount of tax escalation payment for the 1994 tax year). The lessor will not pursue its claim for reimbursement of a tax payment for the 1994 tax year. The Government will not make any claim regarding taxes reimbursed for that tax year.

DECISION

In accordance with the request of the parties, the Board dismisses with prejudice this appeal.

JOSEPH A. VERGILIO

Administrative Judge

Concurring:

HOWARD A. POLLACK

Administrative Judge

ANNE W. WESTBROOK

Administrative Judge

Issued at Washington, D.C.

March 7, 2002